

Before the
Federal Communications Commission
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the Telecommunications Act of)	
1996)	
)	
Florida Public Service Commission Petition to)	NSD File No. L-99-33
Federal Communications Commission for)	
Expedited Decision for Grant of Authority to)	
Implement Number Conservation Measures)	

To: Chief, Common Carrier Bureau

COMMENTS OF PRIMECO PERSONAL COMMUNICATIONS, L.P.

PrimeCo Personal Communications, L.P., hereby submits brief comments in response to the Common Carrier Bureau's ("Bureau") Public Notice of June 22, 1999 seeking public comment on various state commission petitions requesting authority to implement various number conservation measures.¹ As discussed herein, any Commission decision with respect to the merits of number conservation measures proposed by the Florida Public Service Commission ("FPSC") should be addressed in the context of the Commission's pending *Number Resource Optimization* ("NRO") proceeding and the Commission must ensure that its decisions with

¹ Public Notice, *Common Carrier Bureau Seeks Comment on State Utility Commission Requests for Additional Authority to Implement Telecommunications Numbering Conservation Measures*, DA 99-1198 (rel. June 22, 1999). While PrimeCo primarily addresses the merits of the FPSC petition, it notes that the other state commission petitions are similarly flawed.

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respect to the various state petition proceedings do not prejudice or prejudice its ability to act in the *NRO* proceeding. Moreover, and in any event, the record in this proceeding demonstrates that the FPSC petition should be denied in its entirety.

I. The Number Conservation Methods Proposed in the FPSC Petition Should Be Addressed in the Context of the Commission's Pending *NRO* Proceeding and the Commission Must Not Prejudge or Undermine this Important Proceeding

On May 14, 1999, PrimeCo submitted comments in opposition to the petition filed by the FPSC.² In that filing, PrimeCo noted that the issues raised in the state petitions are virtually identical to those raised in the Commission's *Number Resource Optimization* proceeding.³ The merits of the number conservation methods discussed in the petitions should not be addressed independent of a *Report and Order* in that proceeding. The Commission asserts, however, that "[b]ecause the state utility commissions which have petitioned us face immediate concerns regarding the administration of telecommunication numbering resources in their states, we find it to be in the public interest to address these petitions as expeditiously as possible, prior to completing the rulemaking proceeding."⁴ While PrimeCo agrees that number conservation issues are of immediate and pressing concern, it disputes the notion that sound

² See Comments of PrimeCo Personal Communications, L.P. in CC Docket No. 96-98, NSD File No. L-99-33, filed May 14, 1999. PrimeCo hereby incorporates by reference this earlier filing.

³ See *Numbering Resource Optimization, Notice of Proposed Rulemaking*, CC Docket No. 99-200, FCC 99-122 (rel. June 2, 1999), 64 Fed. Reg. 32471 (June 17, 1999).

⁴ Public Notice at 2.

policy or the record in this proceeding support Commission grant of the petitions or piecemeal action with respect to discrete state filings.⁵

As PrimeCo discussed in its comments, Florida does not face a state-specific problem. The voluminous record generated in response to the various petitions further underscores that number conservation is a *national* problem requiring a *national* and comprehensive solution. As courts and the Commission have acknowledged, issues of general applicability are better suited to rulemaking than to case-by-case adjudication or waivers.⁶ Furthermore, the Commission's plenary numbering administration authority, as well as Commission precedent declining to delegate extensive authority to the states, further support dismissal of the state petitions.⁷

⁵ Indeed, the Commission has now sought public comment on a number conservation delegation petition filed by the Texas Public Utility Commission. Public Notice, *Common Carrier Bureau Seeks Comment on the Texas Public Utility Commission Petition for Delegation of Additional Authority to Implement Number Conservation Measures*, CC Docket No. 96-98, NSD File No. L-99-55, DA 99-1380 (rel. July 14, 1999). Given that four of the most populous states are involved -- California, New York, Texas and Florida -- it is clear that any grant of these petitions would have a substantial effect on telecommunications services nationwide.

⁶ See *Rulemaking To Amend Parts 1, 2, 21, And 25 Of The Commission's Rules To Redesignate The 27.5-29.5 GHz Frequency Band, To Reallocate The 29.5-30.0 GHz Frequency Band, To Establish Rules And Policies For Local Multipoint Distribution Service And For Fixed Satellite Services, Second Report and Order*, 12 FCC Rcd. 12545, [] ¶ 388 (1997) (citing *National Small Shipment Traffic Conf. v. ICC*, 725 F.2d 1442, 1447-48 (D.C. Cir. 1984)), *aff'd*, *Melcher v. FCC*, 134 F.3d 1143, 1163-64 (D.C. Cir. 1998); see also *Turro v. FCC*, 859 F.2d 1498, 1500 (D.C. Cir. 1988); *Association of Data Processing Service Orgs., Inc. v. Board of Governors of the Federal Reserve System*, 745 F.2d 677, 689 (D.C. Cir. 1984) ("the whole point of rulemaking as opposed to adjudication . . . is to incur a small possibility of inaccuracy in exchange for a large increase in efficiency and predictability").

⁷ *Pennsylvania PUC Order*, 13 FCC Rcd. 19009, [¶ 21] ("substantial social and economic costs would result if the uniformity of the North American Numbering Plan were compromised by states imposing varying and inconsistent regimes for number conservation and area code relief"); *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order*, CC Docket No. 96-98, (continued...)

PrimeCo also questions whether state commissions would, in the event of a grant of authority, be able to implement any of their proposed measures significantly in advance of the Commission's rules adopted in the *NRO Notice*. None of the petitioners set forth in sufficient detail how and to what extent they would implement the various number conservation methods they seek to impose. In this regard, the proposals in the FPSC petition were particularly noteworthy for their brevity and lack of support. The Commission has *already* begun developing a record regarding various number conservation methods under consideration at NANC, and the formal comment period on the *NRO Notice* will close at the end of August. It is also possible that carriers will incur compliance and implementation costs in conjunction with state-level number conservation requirements, only to have those requirements replaced by a new set of federal requirements a short time later. Again, coordinated action on this national issue -- in the context of the *NRO* proceeding -- is how the Commission should proceed.

II. The Record Demonstrates that the Commission Should Deny the FPSC Petition

The FPSC petition must be rejected. The FPSC in its reply comments inexplicably asserts that “[t]he comments to the FPSC’s petition were indeed overwhelmingly supportive of our petition,” citing to comments filed by other state commissions.⁸ In fact, a review of the comments filed indicates not only that support for the petition was far from “overwhelming,” but that the FPSC and state commissions provided only sparse legal and factual support for their petitions. Indeed, nowhere did the FPSC attempt to rebut the arguments

⁷ (...continued)
11 FCC Rcd. 19392, 19508, ¶ 261 (1996); *Administration of the North American Numbering Plan, Report and Order*, 11 FCC Rcd. 2588, 2621 ¶ 78 (1995)

⁸ Florida Public Service Commission Reply Comments, filed June 1, 1999, at 2.

submitted by PrimeCo and numerous other parties representing a cross-section of industry -- including BellSouth, CTIA, USTA, GTE, Omnipoint, and ALTS -- that challenged the FPSC Petition and demonstrated the numerous flaws in the filing.

The FPSC further asserts that “[s]ome state commissions have already received such jurisdiction from the FCC.”⁹ While the FPSC presumably is referencing number pooling trials in some states, these have been implemented pursuant to the Commission’s *existing* rules and the limited delegation of authority already in place. Again, this does not support the FPSC’s cursory and unsupported request. Finally, the FPSC reiterates its support for number portability and thousand block pooling, citing to number pooling trials currently under way at the state level. As the Commission is aware, however, CMRS carriers are not subject to number portability until November 24, 2002. Furthermore, current number pooling trials are voluntary and do not require wireless participation. If Florida is interested in implementing a number pooling trial, it should proceed in accordance with its existing authority, and grant of its petition is unnecessary.

⁹ *Id.* at 3.

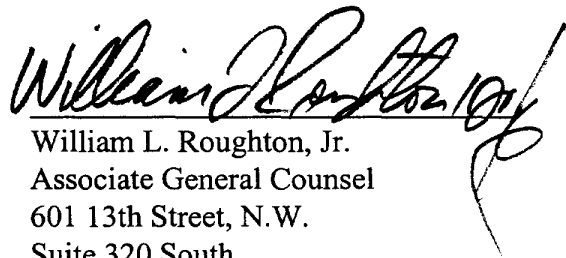
CONCLUSION

For the foregoing reasons, the Commission should deny the FPSC petition and address the number conservation measures proposed in the FPSC's and other state commission petitions in the context of the *NRO* proceeding.

Respectfully submitted,

PRIMECo PERSONAL COMMUNICATIONS, L.P.

By:

A handwritten signature in black ink, appearing to read "William L. Roughton, Jr.", is written over a horizontal line.

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July 16, 1999

CERTIFICATE OF SERVICE

I, Loretta B. Rias, hereby certify that on this 16th day of July 1999, copies of the foregoing Comments of PrimeCo Personal Communications, L.P. were served on the following by hand to:

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